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COMMERCE
ART UNIT

10 3 01 dnc
final/noa

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/3-9200

Applicant(s)

Examiner

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 10 APRIL 2001
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☐ Claim(s) _____ is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☒ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☒ Other FILED IN PAPER 11

Office Action Summary

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1. Translations of the Japanese Nitto and IND KK references are included as a part of this action for the sake of the completeness of the applicants' file; the most pertinent sections of these translations are held/seen to be as follows:
(a) Nitto - Fig. 1, page 3 last two lines, page 4 lines 3-4, 8-9, 13-17, 22-25 and 31-32, page 5 lines 10-13, 20-23, 28-29 and 32-33, page 6 lines 1-2, 8-10 and 27-31; and (b) IND KK - page 1 last six lines (i.e. the claim), page 2 lines 3-5, page 3 lines 12-15.

2. Claims 1-4 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Specifically, claim 1 line 1 - change "the" to "a"; and line 5 - change "with" to "and".

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over the Nitto reference.

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5. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4 are further rejected under 35 U.S.C. § 103(a) as being unpatentable over the Japanese IND KK reference in view of any one of Vogdes et al. or Davis et al. or the Nitto reference.

7. Claims 1-4 are still further rejected under 35 U.S.C. § 103(a) as being unpatentable over the Nitto reference in view of either Vogdes et al. or Davis et al.

8. Applicant's arguments filed 10 April 2001 have been fully considered but they are not deemed to be persuasive. The foregoing art rejections are adhered to essentially for the reasons of record (see paragraphs 4 and 6-7 of the last Office action); further, with each of the foregoing combination rejections, it is the sum total of the teachings of the applied, combined references taken as a whole which is held/seen to render applicants' invention obvious to one of ordinary skill in this art (In re McLaughlin 170 USPQ 209), ² And therefore applicants'

piecemeal attack on the references individually cannot establish unobviousness, since these rejections are based upon a combination of references (In re Mapelsden 141 USPQ 30) i.e. these rejections are not overcome by pointing out that one reference does not contain a particular teaching when the reliance for that teaching was on another reference (In re Lyons 155 USPQ 741), with the following being additionally advanced with respect to the contentions made in the amendment: The Nitto reference indeed fairly documents the (fusion) bonding of two preformed telescoped tubular fluororesin bodies (i.e. the medium and large diameter tubes) possessing/exhibiting different thermal shrinkage characteristics/property (N.B. page 6 lines 27-31 of the Translation) via thermal shrinkage generated therein; further along this line, it is noted that the claims do not (a) preclude the presence or performance of other process steps or materials e.g. the fluororesin powder of the Nitto reference (although the use of this powder is not even (absolutely) required - N.B. page 5 lines 20-23 of the Translation); and (b) require the parts to be bonded to be in contact (but rather only to be in close proximity). In conclusion, the gap (if any) between the envisioned, claimed invention and the teachings of the applied (and, where indicated, combined) references of record is held/seen to be simply not so great as to render the invention unobvious to one reasonably skilled in this art, any differences

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which might possibly/conceivably exist between the invention and the combined teachings of these references being held/seen NOT to constitute patentable differences.

9. **THIS ACTION IS MADE FINAL.** Applicants are reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a). The practice of automatically extending the shortened statutory period an additional month upon the filing of a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. J. Gallagher whose telephone number is (703) 308-1971. The examiner can normally be reached on M-F from approximately 8:30 A.M. to 5 P.M. The examiner can also be reached on alternate N/A.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Ball, can be reached on (703) 308-2058. The fax phone number for this Group is (703) 305-3599.

Serial No. 09/319,202

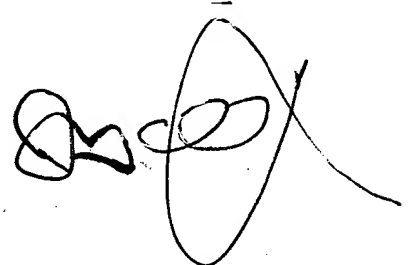
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661/0662.


JJGallagher:cdc

June 28, 2001


JOHN J. GALLAGHER
PRIMARY EXAMINER
ART UNIT 181 1733

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